



Senate

General Assembly

File No. 710

January Session, 2009

Substitute Senate Bill No. 755

Senate, April 20, 2009

The Committee on Education reported through SEN. GAFFEY of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE USE OF ASTHMATIC INHALERS AND EPINEPHRINE AUTO-INJECTORS WHILE AT SCHOOL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) A physician or physician
2 assistant licensed under chapter 370 of the general statutes, an
3 advanced practice registered nurse licensed under chapter 378 of the
4 general statutes and a respiratory care practitioner licensed under
5 chapter 381a of the general statutes may issue to a local or regional
6 board of education a written certification of the need of a child who
7 has been diagnosed with asthma and who is under the care of such
8 licensed health care practitioner to possess an asthmatic inhaler at all
9 times while attending school to ensure prompt treatment of the child's
10 asthma and protect the child against serious harm or death.

11 Sec. 2. (NEW) (*Effective October 1, 2009*) A physician or physician
12 assistant licensed under chapter 370 of the general statutes and an
13 advanced practice registered nurse licensed under chapter 378 of the
14 general statutes may issue to a local or regional board of education a

15 written certification of the need of a child who has been diagnosed
16 with an allergic condition and who is under the care of such licensed
17 health care practitioner to possess an automatic prefilled cartridge
18 injector or similar automatic injectable equipment at all times while
19 attending school to ensure prompt treatment of the child's allergic
20 condition and protect the child against serious harm or death.

21 Sec. 3. Subsections (b) and (c) of section 10-206 of the general
22 statutes are repealed and the following is substituted in lieu thereof
23 (*Effective October 1, 2009*):

24 (b) Each local or regional board of education shall require each child
25 to have a health assessment prior to public school enrollment. The
26 assessment shall include: (1) A physical examination which shall
27 include hematocrit or hemoglobin tests, height, weight, blood
28 pressure, and, beginning with the 2003-2004 school year, a chronic
29 disease assessment which shall include, but not be limited to, asthma
30 as defined by the Commissioner of Public Health pursuant to
31 subsection (c) of section 19a-62a. The assessment form shall include (A)
32 a check box for the provider conducting the assessment, as provided in
33 subsection (a) of this section, to indicate an asthma diagnosis or
34 diagnosis of an allergic condition and whether a certificate has been
35 issued concerning the use of an asthmatic inhaler in accordance with
36 the provisions of section 1 of this act or an automatic prefilled
37 cartridge injector or similar automatic injectable equipment in
38 accordance with the provisions of section 2 of this act, (B) screening
39 questions relating to appropriate public health concerns to be
40 answered by the parent or guardian, and (C) screening questions to be
41 answered by such provider; (2) an updating of immunizations as
42 required under section 10-204a, provided a registered nurse may only
43 update said immunizations pursuant to a written order by a physician
44 or physician assistant, licensed pursuant to chapter 370, or an
45 advanced practice registered nurse, licensed pursuant to chapter 378;
46 (3) vision, hearing, speech and gross dental screenings; and (4) such
47 other information, including health and developmental history, as the
48 physician feels is necessary and appropriate. The assessment shall also

49 include tests for tuberculosis, sickle cell anemia or Cooley's anemia
50 and tests for lead levels in the blood where the local or regional board
51 of education determines after consultation with the school medical
52 advisor and the local health department, or in the case of a regional
53 board of education, each local health department, that such tests are
54 necessary, provided a registered nurse may only perform said tests
55 pursuant to the written order of a physician or physician assistant,
56 licensed pursuant to chapter 370, or an advanced practice registered
57 nurse, licensed pursuant to chapter 378.

58 (c) Each local or regional board of education shall require each pupil
59 enrolled in the public schools to have health assessments in either
60 grade six or grade seven and in either grade nine or grade ten. The
61 assessment shall include: (1) A physical examination which shall
62 include hematocrit or hemoglobin tests, height, weight, blood
63 pressure, and, beginning with the 2003-2004 school year, a chronic
64 disease assessment which shall include, but not be limited to, asthma
65 as defined by the Commissioner of Public Health pursuant to
66 subsection (c) of section 19a-62a. The assessment form shall include (A)
67 a check box for the provider conducting the assessment, as provided in
68 subsection (a) of this section, to indicate an asthma diagnosis or
69 diagnosis of an allergic condition and whether a certificate has been
70 issued concerning the use of an asthmatic inhaler in accordance with
71 the provisions of section 1 of this act or an automatic prefilled
72 cartridge injector or similar automatic injectable equipment in
73 accordance with the provisions of section 2 of this act, (B) screening
74 questions relating to appropriate public health concerns to be
75 answered by the parent or guardian, and (C) screening questions to be
76 answered by such provider; (2) an updating of immunizations as
77 required under section 10-204a, provided a registered nurse may only
78 update said immunizations pursuant to a written order of a physician
79 or physician assistant, licensed pursuant to chapter 370, or an
80 advanced practice registered nurse, licensed pursuant to chapter 378;
81 (3) vision, hearing, postural and gross dental screenings; and (4) such
82 other information including a health history as the physician feels is
83 necessary and appropriate. The assessment shall also include tests for

84 tuberculosis and sickle cell anemia or Cooley's anemia where the local
85 or regional board of education, in consultation with the school medical
86 advisor and the local health department, or in the case of a regional
87 board of education, each local health department, determines that said
88 screening or test is necessary, provided a registered nurse may only
89 perform said tests pursuant to the written order of a physician or
90 physician assistant, licensed pursuant to chapter 370, or an advanced
91 practice registered nurse, licensed pursuant to chapter 378.

92 Sec. 4. Section 10-212a of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective October 1, 2009*):

94 (a) (1) A school nurse or, in the absence of such nurse, any other
95 nurse licensed pursuant to the provisions of chapter 378, including a
96 nurse employed by, or providing services under the direction of a local
97 or regional board of education at, a school-based health clinic, who
98 shall administer medical preparations only to students enrolled in such
99 school-based health clinic in the absence of a school nurse, the
100 principal, any teacher, licensed athletic trainer, licensed physical or
101 occupational therapist employed by a school district, or coach of
102 intramural and interscholastic athletics of a school may administer,
103 subject to the provisions of subdivision (2) of this subsection,
104 medicinal preparations, including such controlled drugs as the
105 Commissioner of Consumer Protection may, by regulation, designate,
106 to any student at such school pursuant to the written order of a
107 physician licensed to practice medicine, or a dentist licensed to practice
108 dental medicine in this or another state, or an optometrist licensed to
109 practice optometry in this state under chapter 380, or an advanced
110 practice registered nurse licensed to prescribe in accordance with
111 section 20-94a, or a physician assistant licensed to prescribe in
112 accordance with section 20-12d, and the written authorization of a
113 parent or guardian of such child. The administration of medicinal
114 preparations by a nurse licensed pursuant to the provisions of chapter
115 378, a principal, teacher, licensed athletic trainer, licensed physical or
116 occupational therapist employed by a school district, or coach shall be
117 under the general supervision of a school nurse. No such school nurse

118 or other nurse, principal, teacher, licensed athletic trainer, licensed
119 physical or occupational therapist employed by a school district, coach
120 or school paraprofessional administering medication pursuant to
121 subsection (d) of this section shall be liable to such student or a parent
122 or guardian of such student for civil damages for any personal injuries
123 that result from acts or omissions of such school nurse or other nurse,
124 principal, teacher, licensed athletic trainer, licensed physical or
125 occupational therapist employed by a school district, coach or school
126 paraprofessional administering medication pursuant to subsection (d)
127 of this section in administering such preparations that may constitute
128 ordinary negligence. This immunity does not apply to acts or
129 omissions constituting gross, wilful or wanton negligence.

130 (2) Each local and regional board of education that allows a school
131 nurse or, in the absence of such nurse, any other nurse licensed
132 pursuant to the provisions of chapter 378, including a nurse employed
133 by, or providing services under the direction of a local or regional
134 board of education at, a school-based health clinic, who shall
135 administer medical preparations only to students enrolled in such
136 school-based health clinic in the absence of a school nurse, the
137 principal, any teacher, licensed athletic trainer, licensed physical or
138 occupational therapist employed by a school district, or coach of
139 intramural and interscholastic athletics of a school to administer
140 medicine or that allows a student to self-administer medicine,
141 including medicine administered through the use of an asthmatic
142 inhaler or an automatic prefilled cartridge injector or similar automatic
143 injectable equipment, shall adopt written policies and procedures, in
144 accordance with this section and the regulations adopted pursuant to
145 subsection (c) of this section, that shall be approved by the school
146 medical advisor or other qualified licensed physician. Once so
147 approved, such administration of medication shall be in accordance
148 with such policies and procedures.

149 (3) A director of a school readiness program as defined in section
150 10-16p or a before or after school program exempt from licensure by
151 the Department of Public Health pursuant to subdivision (1) of

152 subsection (b) of section 19a-77, or the director's designee, may
153 administer medications to a child enrolled in such a program in
154 accordance with regulations adopted by the State Board of Education
155 in accordance with the provisions of chapter 54. No individual
156 administering medications pursuant to this subdivision shall be liable
157 to such child or a parent or guardian of such child for civil damages for
158 any personal injuries that result from acts or omissions of such
159 individual in administering such medications which may constitute
160 ordinary negligence. This immunity shall not apply to acts or
161 omissions constituting gross, wilful or wanton negligence.

162 (b) Each school wherein any controlled drug is administered under
163 the provisions of this section shall keep such records thereof as are
164 required of hospitals under the provisions of subsections (f) and (h) of
165 section 21a-254 and shall store such drug in such manner as the
166 Commissioner of Consumer Protection shall, by regulation, require.

167 (c) The State Board of Education, in consultation with the
168 Commissioner of Public Health, [may] shall adopt regulations, in
169 accordance with the provisions of chapter 54, [as] determined to be
170 necessary by the board to carry out the provisions of this section,
171 including, but not limited to, regulations that (1) specify conditions
172 under which a coach of intramural and interscholastic athletics may
173 administer medicinal preparations, including controlled drugs
174 specified in the regulations adopted by the commissioner, to a child
175 participating in such intramural and interscholastic athletics, (2)
176 specify conditions and procedures for the administration of medication
177 by school personnel to students, and (3) specify conditions for self-
178 administration of medication by students, including permitting a child
179 diagnosed with: (A) Asthma to retain possession of an asthmatic
180 inhaler at all times while attending school for prompt treatment of the
181 child's asthma and to protect the child against serious harm or death
182 provided such child has submitted a written certification to the local or
183 regional board of education in accordance with the provisions of
184 section 1 of this act; and (B) an allergic condition to retain possession of
185 an automatic prefilled cartridge injector or similar automatic injectable

186 equipment at all times while attending school for prompt treatment of
 187 the child's allergic condition and to protect the child against serious
 188 harm or death provided such child has submitted a written
 189 certification to the local or regional board of education in accordance
 190 with the provisions of section 2 of this act. The regulations shall
 191 require authorization pursuant to: [(A)] (i) The written order of a
 192 physician licensed to practice medicine under chapter 370, a dentist
 193 licensed to practice dental medicine [in this or another state] under
 194 chapter 379, an advanced practice registered nurse licensed under
 195 chapter 378, a physician assistant licensed under chapter 370, a
 196 podiatrist licensed under chapter 375, [or] an optometrist licensed
 197 under chapter 380 or a respiratory care practitioner licensed under
 198 chapter 381a; and [(B)] (ii) the written authorization of a parent or
 199 guardian of such child.

200 (d) (1) With the written authorization of a student's parents, and (2)
 201 pursuant to the written order of the student's (A) physician licensed to
 202 practice medicine, (B) an optometrist licensed to practice optometry
 203 under chapter 380, (C) an advanced practice registered nurse licensed
 204 to prescribe in accordance with section 20-94a, or (D) a physician
 205 assistant licensed to prescribe in accordance with section 20-12d, a
 206 school nurse and a school medical advisor may jointly approve and
 207 provide general supervision to an identified school paraprofessional to
 208 administer medication, including, but not limited to, medication
 209 administered with a cartridge injector, to a specific student with a
 210 medically diagnosed allergic condition that may require prompt
 211 treatment in order to protect the student against serious harm or death.
 212 For purposes of this subsection, "cartridge injector" means an
 213 automatic prefilled cartridge injector or similar automatic injectable
 214 equipment used to deliver epinephrine in a standard dose for
 215 emergency first aid response to allergic reactions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

Section 1	October 1, 2009	New section
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Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	10-206(b) and (c)
Sec. 4	<i>October 1, 2009</i>	10-212a

PH *Joint Favorable Subst. C/R* ED

ED *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Education, Dept.	GF - Cost	Minimal	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1 and 2 of the bill permit children to possess asthma inhalers and automatic prefilled cartridge injectors in school if a health care provider certifies that they need to use them. This is not anticipated to result in a fiscal impact to either the State Department of Education (SDE) or local and regional boards of education.

Section 3 requires that the current health assessment be modified to include a checkbox that indicates whether a student (1) has any allergies and (2) has been issued a certificate concerning the use of an inhaler or prefilled cartridge injector. It is anticipated that modifying and reprinting the current health assessment could cost SDE up to \$17,000.

Section 4 makes various other changes that are not anticipated to result in a fiscal impact.

Additionally, Section 3 of the federal Asthmatic Schoolchildren's Treatment and Health Management Act of 2004 amends the Public Health Service Act (PHSA) to direct the Secretary of Health and Human Services, in making certain PHSA grants or any other asthma-related grant to a state, to give preference to states that require public elementary and secondary schools to allow students to self-administer medication to treat that student's asthma. sSB 755 allows children to

possess asthma inhalers, meeting the requirements of Section 3 of the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. It is anticipated that, should sSB 755 pass, preferential treatment related to PHSA grants, or any other asthma-related grant, shall be given to Connecticut relative to the number of other states that pass or do not pass similar legislation.

The Out Years

The cost associated with modifying the health assessment form would be one-time in nature.

Sources: 4/16/09 The Library of Congress Online, State Department of Education

OLR Bill Analysis**sSB 755*****AN ACT CONCERNING THE USE OF ASTHMATIC INHALERS AND EPINEPHRINE AUTO-INJECTORS WHILE AT SCHOOL.*****SUMMARY:**

This bill permits children to possess asthma inhalers and automatic prefilled cartridge injectors used to treat allergic reactions (commonly called “epipens”) in school if a health care provider certifies they need to use them. It requires mandated periodic school health assessments to indicate whether a child has received such certification.

The bill requires, rather than allows, the State Education Department (SDE) to adopt regulations governing medication administration by school personnel and student self-administration. It specifies that the latter must address students using asthmatic inhalers and epipens. Finally, the bill permits licensed athletic trainers employed by a school board to administer medication to students under the general supervision of a school nurse.

EFFECTIVE DATE: October 1, 2009

ADDRESSING STUDENTS’ ASTHMA AND ALLERGIES***Possessing Inhalers and Epipens at School***

The bill allows a student diagnosed with asthma or an allergic condition to carry an inhaler or an epipen or similar device in school if the student:

1. is under the care of physician, physician assistant, or advanced practice registered nurse (APRN) or, in the case of a student with asthma, a respiratory care practitioner and
2. the practitioner certifies in writing to the student’s school board

that the student needs to keep an inhaler or epipen at all times to ensure his or her prompt treatment.

Asthma and Allergies in Mandated School Health Assessments

The law requires students to have a health assessment three times during their school careers—before enrolling in school, in sixth or seventh grade, and in ninth or tenth grade. Current law requires the assessment form to include a checkbox for the provider to indicate if the child has asthma. The bill requires the checkbox also to indicate whether the student has (1) any allergies and (2) been issued a certificate concerning the use of an inhaler or epipen.

Medication Administration Regulations

School boards do not have to allow medication administration by school personnel and students' self-medication, but if they do they must follow state regulations. The bill requires, rather than permits, SDE to adopt such regulations. (The Public Health Code already contains such regulations (10-212a-1 to -7).) It requires the regulations on self-administration to include permitting children diagnosed with asthma or allergies to possess inhalers or epipens at school if they have followed the bill's provisions for a qualified provider's written certification.

Under current law, the regulations must require a written order from a doctor, physician assistant, dentist, APRN, podiatrist, or optometrist authorizing school personnel or a student to administer or self-administer a medication. The bill adds respiratory care practitioners to this list.

The bill removes dentists licensed in another state from this list of authorizing practitioners, but a related statute (CGS §10-212a (a)(2)) still allows them to write orders for medication administration.

MEDICATION ADMINISTRATION BY ATHLETIC TRAINERS

The bill adds licensed athletic trainers employed by a school board to the list of school personnel who may administer medications to students under a school nurse's general supervision. By law, these

personnel are immune from civil liability for any acts or omissions in administering medication, unless they constituted gross, wilful, or wanton negligence.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute Change of Reference

Yea 30 Nay 0 (03/04/2009)

Education Committee

Joint Favorable Substitute

Yea 30 Nay 0 (04/01/2009)